



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,922	08/10/2001	Richard Alexander	0164-4015	6059

7590 11/26/2003
MORGAN & FINNEGAN, L.L.P.
345 Park Avenue
New York, NY 10154-0053

EXAMINER

WEAVER, SUE A

ART UNIT PAPER NUMBER

3727

DATE MAILED: 11/26/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/927,922

Applicant(s)

ALEXANDER, RICHARD

Examiner

Sue A. Weaver

Art Unit

3727

A.W.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18-22, 24-28, 30-34, 36-40, 42-45, 47-50, and 52-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-22, 24-28, 30-34, 36-40, 42-45, 47-50 and 52-67 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3727

1. The drawings remain objected to under 37CFR 1.83(a) with regard to the method steps claimed in claims 55-66.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-3, 10-12, 15, 16, 19, 22, 25 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in the manner set forth in paragraph 3 of Paper No.5 and further in view either Anderson et al or Deards et al.

Applicants have not argues the primary references as applied to the claims. Applicant's argument is directed to the claim for "at least one stop" on the zone of weakness for protecting the zone from inadvertently parting. To the extent that applicant claims any particular "stop" construction, the problem of unintentional or inadvertent tears is well – known in packaging. Anderson et al teach a configuration with resists tear propagation or unintentional tearing on a line of perforations as at 36. Note that this results in at least one stop on the zone of weakness which inherently prevents inadvertent tearing or parting. Deards et al teach another stress relief construction at 13 which protects the film against tearing and therefor functions as a "stop". To have provided the a zone of weakness of Sachs with such a stop to prevent inadvertent separation would have been obvious in view of the teaching of either Anderson et al or Deards et al.

3. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lim in the manner set forth in paragraph 4 of Paper No. 5, in view of either Anderson et al or Deards et al.

To have merely provided the zone of weakness of Lim with a stop to prevent inadvertent separation would have been obvious in view of either Anderson et al or Deards et al.

4. Claims 4, 6, 7, 31, 34, 45, 48, 50 and 52 rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of either Lim or LaRosa in the manner set forth in paragraph 5 of Paper No. 5 and further in view of either Anderson et al or Deards et al.

To have merely formed the zones of weakness on both the front and back sides of the cover for ease of removal would have been obvious in view of either Lim or La Rosa, teaching such orientation. To have provided a stop in the zone of weakness to prevent inadvertent separation would have been obvious in view of either Anderson et al or Deards et al.

5. Claims 8, 9, 13, 14, 18, 21, 24, 27, 30, 33, 36, 39, 42, 44, 47, 49, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-7 above, and further in view of Gilchrist, Jr in the manner set forth in paragraph 6 of Paper No. 5.

6. Claims 37 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sachs in view of Lim in the manner set forth in paragraph 7 of Paper No. 5 and further in view of either Anderson et al or Deards et al.

To have provided a stop in the zone of weakness to prevent inadvertent separation would have been obvious in view of the teaching by either Anderson et al or Deards et al.

Art Unit: 3727

7. Claims 12, 20, 26, 32, 38, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-7 above, and further in view of Gluckenberger in the manner set forth in paragraph 9 of Paper no. 5.

8. Claims 55 and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 1-7 and 53 above, and further in view of Smyth, of record

To have simply made the cover from a tubular extrusion would have been obvious in view of Smyth, recognizing such well-known method.

9. Claim 63 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 54 above, and further in view of Venturini, of record.

To have further directed the diagonal zones as a pattern which extends along the length of the cover would have been obvious in view of the alternate teaching by Venturini in Figure 7.

10. Claims 56, 58, 60, 62, 64 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over references as applied to claims 55, 59 and 63* above, and further in view of Chester for the reasons set forth in paragraph 12 of Paper no. 5.

11. Claims 57, 61 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 55, 59 and 63 above, and further in view of Gluckenberger for the reasons set forth in paragraph 13 of Paper No. 5.

12. Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schmidt et al, of record, in view of either Anderson et al or Deards et al.

Art Unit: 3727

To have provided a stop on the zone of weakness of Schmidt et al in order to prevent inadvertent separation would have been obvious in view of either Anderson et al or Deards et al.

13. Applicant's arguments, see the remarks, filed 9/24/2003, with respect to the rejection(s) of claim(s) 1-7, 52-56, 59, 63 and 67 under Marbler have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of either Anderson et al or Deards et al.

To the extent that applicant claims any particular "stop" structure, both Anderson et al and Deards et al are considered to teach constructions which prevent or stop inadvertent tearing as noted above. Therefore claims 1-16, 18-22, 24-28, 30-34, 36-40, 42-45, 47-50 and 52-67 have been rejected while claims 17, 23, 29, 35, 41, 46 and 51 have been cancelled.

14. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Art Unit: 3727

on _____
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) _____ - _____ on _____
(Date)

Typed or printed name of person signing this certificate:

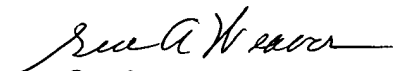
Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186. The examiner can normally be reached on Tuesday-Friday.

— The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.


Sue A. Weaver
Primary Examiner